

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:99-00049-02

CHARLES N. PAXTON, JR.

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On December 17, 2008, the United States of America appeared by Thomas C. Ryan, Assistant United States Attorney, and the defendant, Charles N. Paxton, Jr., appeared in person and by his counsel, David R. Bungard, Assistant Federal Public Defender, for a hearing on the petition on supervised release submitted by Senior United States Probation Officer Keith E. Zutaut, the defendant having commenced a five-year term of supervised release in this action on March 28, 2008, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on February 8, 2001.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant used opiates and marijuana as evidenced by a positive urine specimen submitted by him on July 22, 2008, the defendant having admitted such use to the probation officer advising that he had attended a party and used multiple illegal substances; (2) that the defendant used morphine and opiates as evidenced by a positive urine specimen submitted by him on August 15, 2008; and (3) that the defendant used morphine and oxycodone as evidenced by a positive urine specimen submitted by him on August 29, 2008; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously

imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TIME SERVED, to be followed by a term of 33 months supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the following special conditions:

1. The defendant shall spend a period of SIX (6) MONTHS in a community confinement center, preferably Transitions, Inc., and participate in the drug abuse and treatment program available to him. Upon notification that bed

space is available¹, the defendant shall report directly from his place of incarceration to the community confinement center and be transported there by his wife, Jackie Paxton.

2. Once released from the community confinement center, the defendant shall participate in an outpatient or aftercare drug abuse counseling and treatment program as directed by the probation officer.

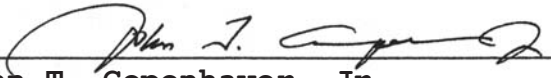
3. The defendant shall pay the \$3,815.60 restitution balance as previously ordered by the court.

The defendant was remanded to the custody of the United States Marshal. It is directed that the defendant be released from custody on January 12, 2009, no later than 10:00 a.m. so that he may report to Ashland House, Ashland, Kentucky, by noon of that same day.

¹ The court has been informed by Senior United States Probation Officer Keith E. Zutaut that the defendant is to report to Ashland House, Ashland, Kentucky, by noon on January 12, 2009.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: January 9, 2009



John T. Copenhaver, Jr.
United States District Judge